

To: Havard, James[Havard.James@epa.gov]
Cc: Hunter, Christopher[Hunter.Christopher@epa.gov]
From: Hashimoto, Janet
Sent: Wed 3/14/2018 5:21:22 PM
Subject: RE: Process on 303(d) actions
Draft 303d EPA Action Letter and Enclosure 030718.docx
Briefing for Tomas Adding Temperature to 303d list.pptx

Jim/Chris: Tried to call today to give brief update on our review process for the CA 303(d) list. (Reached Chris and chatted a bit. He'll discuss with Jim.) As I indicated in earlier email below, we are planning to add waters to CA's list for temperature impairments. We briefed Tomás Torres, WDD, last week. We gave him an early draft of our partial approval/partial disapproval (PA/PD) letter (attached; please do not distribute). We are only considering the addition of temperature impairments for the San Joaquin River segments and tribs, including waters up to Suisun Bay and Carquinez Strait of SF Bay. We gave Tomás a brief overview of our assessment of the temperature data (see PowerPoint; map shows the addition locations) and temperature thresholds we considered for impairment listing.

We have been in discussion with the State Board about our plans to add waters. They are OK with us proceeding, as they already have a lawsuit from Pacific Coast Federation of Fishermen's Assn. (PCFFA) about these listings and many others. In order to address the lawsuit, they are considering potential additions in a separate listing cycle. We are coordinating with them, so that they won't need to duplicate our work. Without creating discoverable files, we are trying to share information. They want to see if they can recreate our assessment and understand the data set we considered.

We now need HQ guidance on whether and how we can proceed with our PA/PD. Thanks.
Janet



Janet Y. Hashimoto

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From: Hashimoto, Janet

Sent: Friday, March 2, 2018 11:59 AM

To: Havard, James <Havard.James@epa.gov>

Cc: Hunter, Christopher <Hunter.Christopher@epa.gov>; Guiliano, Dave <Guiliano.Dave@epa.gov>

Subject: RE: Process on 303(d) actions

Jim: I don't have access to the Regional weekly reports. For WD weekly, I couldn't find earlier posting. This one is after the fact, but here's what was in the 2/26 weekly. Sorry, if we missed reporting earlier.

“Approved Hawaii Impaired Waters List: On 2/15, we approved Hawaii's CWA Section 303(d) impaired waters list. Hawaii added 104 new impaired pollutant-waterbody combinations and delisted 23. Turbidity and bacteria are the predominant cause of impairments for marine waters and inland surface waters, respectively. (Oros, x23583)”

On the 2/12 WD weekly, we entered following:

“California Impaired Waters List Under Review: On 2/5, the State Water Resources Control Board submitted their CWA Section 303(d) impaired waters list for our approval, a-is, or with proposed additional waters and impairments. Three separate lawsuits have been filed by environmental groups against the state for failure to list certain waters for temperature, pesticides and flow. We have 30 days to review and our action will have high litigation potential. (Fleming, x23462)”

As you can see, there seems to be a typo or somehow something got garbled. The yellow portions probably said “we may approve as is, or ...” I can't tell, because I'm getting these out of the archives. Also, what I provide is always edited and I don't see what gets submitted until after it's sent up to the RA. In any case, we can discuss plans for CA 303(d) list approval/proposed additions as we proceed. We are heavily in deep dive review of data to

potentially add some temperature impairments as we did a few cycles back in 2008. Will be ready to discuss next week. BTW, our WDD encouraged us to add waters.

Janet



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From: Havard, James
Sent: Friday, March 2, 2018 10:53 AM
To: Hashimoto, Janet <Hashimoto.Janet@epa.gov>
Cc: Hunter, Christopher <Hunter.Christopher@epa.gov>
Subject: RE: Process on 303(d) actions

Phew, I'm glad a note did go up. Can you please send me a copy of the note, including the date it went up and date of approval? Thanks!

Jim

From: Hashimoto, Janet
Sent: Friday, March 02, 2018 1:38 PM
To: Havard, James <Havard.James@epa.gov>
Subject: Re: Process on 303(d) actions

Apologies for not providing copy of weekly item for Hawaii list approval. We did put in weekly. This approval is straight forward approval. We are working now on CA's list so will loop HQ in shortly. Janet

Sent from my iPhone

On Mar 1, 2018, at 2:14 PM, Havard, James <Havard.James@epa.gov> wrote:

Hi Janet and Dave—

Chris H thinks he heard mention of a 303(d) list approval action (Hawaii) on yesterday's call? Is there a pending or recent action?

Please recall this process I explained in my email last year (see below) and discussed at the FLY IN in DC as well.

For lists, even for straight approvals that are not controversial, there is a process. Please see the highlighted language below.

Can you provide me an update? Perhaps I missed some communication.

Thanks!

Jim

From: Havard, James

Sent: Wednesday, June 14, 2017 5:50 PM

To: Abele, Ralph <abele.ralph@epa.gov>; Adkins, Tabatha <Adkins.Tabatha@epa.gov>; Anderson, Kate <Anderson.Kate@epa.gov>; Balla, Richard <Balla.Richard@epa.gov>; Benante, Joanne <benante.joanne@epa.gov>; Bloom, Judy <Bloom.Judy@epa.gov>; Campbell-Dunbar, Shawneille <Campbell-Dunbar.Shawneille@epa.gov>; Carlin, Jayne <Carlin.Jayne@epa.gov>; Croxton, Dave <Croxton.David@epa.gov>; DeLashmit, John

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Subject: Process on 303(d) actions

Hello 303(d) folks. I've received further clarity on the interim process for engaging the Administrator's Office. Here's where we are:

Interim process for engaging the Administrator's Office (AO) on 303(d) actions:

- List actions:

- For list actions (i.e., approvals/disapprovals/deferrals) that the state does not object to and for which the Region/state are not aware of major stakeholder/affected party potential backlash: Notify the Administrator via the Regional weekly AO report the week before, then take the action if Region does not hear about any AO concerns. The notification should explain why there is no state objection if the action is anything other than a complete approval. Please send us (Jim and Eric) a copy of the what will be/was included in the Regional weekly AO report.
- For list actions (i.e., approvals/disapprovals/deferrals) to which the state objects and/or major stakeholder/affected party backlash is expected, please coordinate with the Watershed Branch on next steps for engaging with OW/AO.

- TMDL actions:

- o For TMDL approvals, only include in Regional weekly AO report (and copy us) if the approval is significantly precedential or controversial. Otherwise approve per normal Regional process.
- o For all disapprovals, please coordinate with the Watershed Branch on next steps for engaging with OW/AO.

Separate from the AO process, please continue our long-standing 303(d) Program process of coordinating with the Watershed Branch on disapprovals and deferrals, as well as other actions with nationally significant implications (e.g., could set a big precedent, could raise litigation, could raise significant controversy/attention, address a national policy issue, etc. . .).

We are happy to assist in determining where particular actions fall in either the Interim AO or longstanding 303(d) process.

Please let me know if you have any questions.

Thanks!

Jim

Jim Havard

Chief

Watershed Branch

EPA Office of Water

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